



ALBANY CITY COUNCIL AGENDA

Monday, June 22, 2020

This meeting will be conducted virtually. At 4:00 p.m., join the meeting at:

<https://www.gotomeet.me/cityofalbany/ccm>

You can use your built-in microphone or dial in using your phone.

Toll free: [1-646-749-3129](tel:1-646-749-3129)

Access code: [491-970-829](tel:491-970-829)

Microphones will be muted and webcams will be turned off for presenters and members of the public unless called upon to speak.

If participant(s) disrupt the meeting, the participant(s) microphone and webcam will be turned off.

If disruption continues, the participant(s) will be removed from the meeting.

4:00 p.m. Call to order and roll call

4:05 p.m. Business from the public

Persons wanting to address the council during "business from the public" must send their written comments by email to cityclerk@cityofalbany.net. Please limit comments to one page and include your name and address. Emails received before noon on the day of the meeting will be included in the record.

4:10 p.m. Sorte property access request – Rick Barnett. [Pages 2-13]

Action Requested: Information, discussion, direction.

4:30 p.m. Columbus Street infrastructure funding agreement – Matthew Ruettgers. [Pages 14-43]

Action Requested: Information, discussion, direction.

4:40 p.m. Transient lodging tax funding discussion – Seth Sherry. [Page 44]

5:20 p.m. City manager report

5:30 p.m. Adjournment

Due to Governor Brown's Executive Orders limiting public gatherings during the COVID-19 pandemic, this meeting is accessible to the public via phone and video connection.



MEMO



TO: Albany City Council

VIA: Peter Troedsson, City Manager 

FROM: Kim Lyddane, Director of Parks & Recreation
Rick Barnett, Park and Facilities Maintenance Manager

DATE: June 9, 2020, for the June 22, 2020 City Council Meeting

SUBJECT: Request from Curt Sorte for an access/utility easement through City owned property

Action Requested:

Discussion and direction regarding request for an access/utility easement.

Discussion:

Mr. Sorte is requesting the City grant a permanent access/utility easement approximately 1,000 feet long off the north dead-end hammerhead on SW Moose Run Drive. This access easement would cross City owned property managed by the Parks & Recreation Department, including the Oak Creek Greenbelt Trail.

Mr. Sorte owns two (2) parcels of land in south Albany which are separated by the Calapooia River. The river is the dividing line between City limits and Linn County jurisdiction in this area as shown on Attachment A. The parcel of land on the east side of the river is bordered by City park property on the east and south sides, with private property owners bordering on the north, as well as a portion of the east side. His property is zoned Open Space, which allows for construction/development of one single family residential home on an existing lot of record. Staff has spent a significant amount of time reviewing code requirements and evaluating options for Mr. Sorte leading up to a pre-application that was held on 1/29/2020. The pre-application meeting that was held discussed his request for an access easement for a driveway across Parks property to his parcel of land on the east side of the river. This access easement is needed in order to develop the property which is currently land locked with no legal access to a public right of way. Granting the requested access/utility easement would provide the needed access in order to potentially develop a buildable site for a single-family home and/or prepare the property for sale. Construction of a single-family home on this parcel and the requested access would require application/approvals from the City of Albany and multiple outside agencies in order to move forward a development (single family home and access). This development would impact natural resource areas such as wetlands, floodplain, floodway, and riparian areas, triggering the requirements for agency review. These requirements are detailed further in Attachment B.

In the past, Parks has denied requests for an access easement due to impacts to the discussed natural resource areas contained on the City parks owned property and added impacts to the existing parks trails system.

Staff believes that any access granted should be a directive approved by City Council and be conditioned as follows:



1. Grant of access/utility easement shall be contingent upon successful approval of all development applications needed for the development of a single-family home site and allowed appurtenances, along with approvals for the access road across the City's property. Conditional approval to grant this easement would run with the land if the Council desires.
2. Mr. Sorte grants the City permanent access to the City owned parcel on the west side of the river that currently has no legal road access. The intent of this access is for maintenance of the City owned property (see Attachment A).
3. The proposed access does not block access to or adversely impact the Oak Creek Greenbelt Trail.
4. Upon construction of the access, any trail crossings must be maintained. Owner is responsible for repairing any damage to the trail where it crosses the roadway in addition to installation of appropriate crossing signage and safety measures to be approved by the City.
5. Owner will be responsible for the security of their property and if desired will be responsible for supplying and installing a gate at the intersection of their property line and proposed access road.
6. The City will retain access rights over any easement granted over City owned property for the purposes of maintenance and access to City properties.

Budget Impact:

N/A.

kl, rb

Attachments:

Attachment A – Map

Attachment B – Development Requirements

JACK DOTY
11S04W13-C0-00500
57.35 ACRES

CHRISTOPHER N
11S04W13-CD-0
17.56 ACRES

CURT SORTE
11S04W24-00-00300
29.49 ACRES

CURT SORTE
11S04W24-00-00301
14.59 ACRES

CITY OF ALBA
11S04W24-00-00
58.18 ACRES

CITY OF ALBANY
11S04W24-00-00400
5.8 ACRES

CITY OF ALBANY
11S04W24-00-01000
13.52 ACRES

Oakville Rd.

Spruce St.

Easy Ave.

Chinook Ct.

Elk Run

Elk Run Dr.

Osprey Ct.

Calappa River

OAK CREEK

6065216571

Attachment B: Development Requirements regarding Map/Tax Lot 11S-03W-24, Tax Lot 301

Basic Development Standards of the OS zoning district – Article 6: Zoning is Open Space (OS). The purpose of the OS district is to preserve agricultural uses, park and recreation areas, wildlife habitat, wetlands, natural areas, flood conveyance, and uses that do not involve the construction of structures other than minor accessory facilities required to conduct the principal use.

Allowed Uses in OS District: Uses permitted outright include one single-family dwelling on a lot legally created before July 1, 1991; paths and bridges for pedestrians and bicycles; parks and recreational facilities identified on the City’s Parks Master Plan; new agricultural uses where trees and native vegetation are not removed and where no buildings are constructed; water-dependent and water-related uses; and removal of live vegetation in conjunction with an approved use.

Certain uses may be allowed conditionally (through a Type II process) in the OS district if they are located outside the Riparian and Significant Wetland Overlays. They include accessory buildings; temporary on-site sale of site-produced seasonal goods; plant nurseries and greenhouses; low impact outdoor recreational facilities (e.g. equestrian trails, etc.), and parks and related facilities, where trees and native vegetation removal are minimized and where no buildings are constructed; private construction of transportation facilities and utilities not identified in master plans that meet a public need; and development within wetlands not locally regulated as designated in the Local Wetland Inventories adopted by the City, if approved by DSL, USACE, and other applicable federal or state agencies.

Natural Resource Overlay Districts: The subject property is located in the Floodplain Overlay District (/FP), Riparian Corridor Overlay (/RC), and the Significant Wetland Overlay (/SW). There are wetlands on site that are both found on the National Wetlands Inventory and the Local Wetlands Inventory. Additionally, portions of the Sorte property is in a FEMA-designated floodway. According to ADC 6.075, the regulatory floodway is the stream channel plus that portion of the overbanks that must be kept free from encroachment in order to discharge the 1-percent-annual-chance flood without increasing flood levels by more than 1 foot.

Floodway Restrictions: ADC 6.092 states that no variance will be given to standards for development in a floodway. ADC 6.093(B)(1) states in part that any development in the floodway allowed by Sections 6.100-6.101 will be reviewed through the Site Plan Review process. ADC 6.094 lists floodplain development permit exemptions; however the exemptions do not apply to development in the floodway.

Plans submitted for any development in the Special Flood Hazard Area (100-year floodplain) must include the following information, according to ADC Section 6.095:

- (1) Elevations of the original contours.
- (2) Final elevations of proposed fills and excavations.
- (3) Base flood (100-year flood) elevations of the site.
- (4) Location of any designated floodway and base flood boundary. If no floodway is designated, estimate the location of the floodway boundary per Section 6.100
- (5) Location of any designated wetlands and/or wildlife habitat (if applicable).
- (6) Proposed elevation in relation to mean sea level of the lowest floor (including basement) of all structures (if applicable).
- (7) Description of the extent to which a watercourse will be altered or relocated as a result of proposed

development (if applicable).

- (8) If floodproofing is required, the proposed description and elevation of floodproofing.
- (9) Elevation certificate. The base flood elevation shall be determined based on the applicable flood insurance study and flood profile. A copy of the flood profile with the base flood elevation identified on the flood profile shall be included with the elevation certificate as evidence for determining the base flood elevation.

ADC 6.100 states that no development is allowed in any floodway except when the review body finds that the development will not result in any increase in flood levels during the occurrence of the 100-year flood (a “no-rise” analysis). The finding shall be based upon applicant-supplied evidence certified by a registered professional engineer and upon documentation that one of the following criteria has been met:

- (1) The development does not involve the construction of permanent or habitable structures (including fences). [Ord. 5746, 9/29/10]
- (2) The development is a public or private park or recreational use or municipal utility use.
- (3) The development is a water-dependent structure such as a dock, pier, bridge, or floating marina.

Standards for alterations to a watercourse (for things like culverts or bridges) are listed in ADC 6.101.

ADC 6.111 states that no grading, fill, excavation, and paving will be permitted in a floodway, except when the applicant has supplied evidence prepared by a professional engineer that demonstrates the proposal will not result in any increase in flood levels during the occurrence of the 100-year flood (a “no-rise” analysis). The floodplain development permit will be approved if the applicant shows that each applicable criterion has been met:

- (1) Provisions have been made to maintain adequate flood-carrying capacity of existing watercourses, including future maintenance of that capacity.
- (2) The proposal will be approved only where adequate provisions for stormwater runoff have been made that are consistent with the Public Works Engineering standards, or as otherwise approved by the City Engineer.
- (3) No grading, fill, excavation, or paving will be permitted over an existing public storm drain, sanitary sewer, or water line unless it can be demonstrated to the satisfaction of the City Engineer that the proposed grading, fill, excavation, or paving will not be detrimental to the anticipated service life, operation and maintenance of the existing utility.
- (4) In areas where no floodway has been designated on the applicable FIRM, grading will not be permitted unless it is demonstrated by the applicant that the cumulative effect of the proposed grading, fill, excavation, or paving when combined with all other existing and planned development, will not increase the water surface elevation of the base flood more than a maximum of one foot (cumulative) at any point within the community.
- (5) The applicant shall notify the City of Albany, any adjacent community, and the Natural Hazards Mitigation Office of the Oregon Department of Land Conservation and Development of any proposed grading, fill, excavation, or paving activity that will result in alteration or relocation of a watercourse (See Section 6.101).
- (6) All drainage facilities shall be designed to carry waters to the nearest practicable watercourse approved by the designee as a safe place to deposit such waters. Erosion of ground in the area of discharge shall be prevented by installation of non-erosive down spouts and diffusers or other devices.
- (7) Building pads shall have a drainage gradient of two percent toward approved drainage facilities, unless waived by the Building Official or designee.

ADC 6.120 lists building standards that apply for building permits in the Special Flood Hazard Area:

- (1) Property owners or developers shall file with the City two elevation certificates in a format that is acceptable to FEMA. These certificates must be approved by the Building Official, prepared by a registered surveyor or professional engineer, architect or surveyor, and maintained for public inspection. A Pre-Construction Elevation Certificate shall be submitted and approved prior to setback and foundation inspection approval. A Post-Construction Elevation Certificate shall be submitted and approved prior to final inspection approval for all building permits when the Pre-Construction Elevation Certificate shows the building site to be within a Special Flood Hazard Area and lowest adjacent grade to be at or below the base flood elevation (BFE). The Post-Construction certificate must contain: 1) the actual elevation (in relation to mean sea level) of the lowest floor including basement of all new or substantially improved structures; 2) the elevation of any flood proofing; and 3) whether or not the structure contains a basement.
- (2) The lowest floor, including basement, of any proposed structure (including residential and non-residential structures) shall be placed at least one (1) foot above the 100-year flood as determined by the latest Flood Insurance Study.
- (3) When elevation data is not available either through the Flood Insurance Study, FIRM, or from other sources of floodplain and floodway data as described in Section 6.080, applications for building permits shall be reviewed to assure that proposed construction will be reasonably safe from flooding. The test of reasonableness is a local judgment and includes use of historical data, high water marks, photographs of past flooding, etc., when available.
- (4) All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.
- (5) All new construction and substantial improvements shall be constructed using methods and practices that minimize flood damage.
- (6) Electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities shall be designed and/or otherwise elevated or located so as to prevent water from entering or accumulating within the components during a flood.
- (7) All new construction and substantial improvements shall be anchored to prevent flotation, collapse, or lateral movement and shall be installed or constructed using materials, methods, and practices that minimize flood damage.
- (8) All new and replacement public water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system.
- (9) All new and replacement public sanitary sewer systems shall be designed to minimize or eliminate infiltration of flood waters into the system and discharges from the system into flood water. On site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.
- (10) If floodproofing methods are required as per Section 6.121(2), the property owners or developers shall file with the City a certification by a registered professional engineer or architect that the floodproofing methods meet or exceed FEMA standards. The City will maintain the certification available for public inspection.

ADC 6.121 lists the flood hazard reduction standards for structures in the Special Flood Hazard Area:

- (1) In all structures that will not be floodproofed, as described in 6.121(2), fully enclosed areas below the lowest floor (crawl spaces, parking areas or building access) and lower than 1 foot above the 100-year flood level must meet or exceed the following criteria:
 - (a) At least two openings, having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding, shall be provided.
 - (b) The bottom of all openings shall be no higher than one foot above grade.

- (c) Openings may be equipped with screens, louvers, or other coverings or devices, provided that they permit the automatic entry and exit of floodwaters.
 - (d) The interior grade below the BFE must not be more than two (2) feet below the lowest adjacent exterior grade.
 - (e) The height of the below-grade area, measured from the interior grade to the top of the foundation wall must not exceed four (4) feet at any point.
 - (f) There must be an adequate drainage system that removes floodwaters from the interior area. The enclosed area should be drained within a reasonable time after a flood event.
 - (g) It will be used solely for parking vehicles, limited storage, or access to the building and will never be used for human habitation.
 - (h) The property owner of the building shall sign and record on the title to the property a nonconversion agreement, guaranteeing not to improve, finish, or otherwise convert the enclosed area below the lowest floor and lower than 1-foot above the 100-year flood level and granting the City the right to inspect the enclosed area.
- (2) Nonresidential construction meeting the certification requirements of 6.120 (1) and (10) can have the lowest floor and attendant utility and sanitary facilities located lower than one foot above the 100-year flood elevation if:
- (a) The structure is floodproofed so that areas lower than one foot above the 100-year flood level are watertight with walls substantially impermeable to the passage of water.
 - (b) The structure has structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy.
 - (c) The applicant is notified that flood insurance premiums will be based on rates that are one foot below the floodproofed level.
 - (d) The applicant files a certification by a registered professional engineer or architect that the design and methods of construction are in accordance with accepted standards of practice for meeting provisions of this subsection based on their development and/or review of the structural design, specifications and plans. The certification shall be provided to the Building Official as set forth in 6.120(1).

ADC 6.122 provides exemptions for accessory structures in the Special Flood Hazard Area if they represent a “minimal investment,” which is defined as a “building that costs less than \$10,000 in labor and materials to construct.” The value of the building will be the value stated on the building permit application. The following standards apply:

- (1) Accessory structures shall not be used for human habitation.
- (2) Accessory structures shall be designed to have low flood damage potential.
- (3) Accessory structures shall be constructed and placed on the building site so as to offer the minimum resistance to the flow of floodwaters.
- (4) Accessory structures shall be firmly anchored to prevent flotation that may result in damage to other structures.
- (5) Service facilities such as electrical and heating equipment shall be elevated and/or floodproofed.

According to ADC 6.125, all fences and walls are prohibited in the floodway.

Riparian Corridor Overlay: The Riparian Corridor overlay district extends 50 feet upland from the Ordinary High Water mark, measured horizontally.

Significant Wetland Overlay: The Significant Wetland overlay district is comprised of fish-bearing waterways below the Ordinary High Water Mark, the wetlands associated with riparian corridors, and higher quality isolated significant wetlands, in the City's Local Wetland Inventory (LWI), and as amended through wetland delineations approved by the DSL and the ACE, if applicable. Notice to, and potentially permits from, DSL and ACE are still required for potential impact to all wetlands regulated by DSL or ACE.

Exempt Activities: Some activities are exempt from Natural Resource Impact Review. Some examples are listed here:

- (1) Emergency procedures necessary for the immediate safety or protection of life or property, including removing hazardous trees and stream bank stabilization.
- (2) Removal of refuse or any fill that is in violation of local, state or federal regulations or in-channel erosion or flood control measures approved by City of Albany Public Works, DSL, ACE and any other applicable state or federal regulatory agency. Removal or placement of material in waters of the State must be consistent with State of Oregon Removal-Fill regulations (ORS 196.795-990) and the ACE fill regulations.
- (3) City construction of public infrastructure, such as transportation, stormwater, sewer, and water utilities. This exemption requires unimproved but disturbed areas to be replanted with native vegetation.
- (4) Private construction of public infrastructure. The location and construction of public transportation and utility facilities and structures as identified in a City-adopted master plan. This exemption requires that unimproved but disturbed areas are replanted with native vegetation.
- (5) The use of pre-existing right-of-way or easements for public infrastructure, franchise utilities, and railroads. Planting and maintaining native vegetation is encouraged.
- (6) Implementation of erosion prevention or flood control measures provided the measures have received any required approvals and permits from local, state or federal regulatory agencies with jurisdiction over the proposed activity.
- (7) Farming practices such as grazing, plowing, planting, cultivating and harvesting, that either existed on the property prior to the date of adoption of these provisions or do not include new or expanded structures, roads, or other facilities involving grading, excavation, fill, native vegetation removal, or new drainage measures.
- (8) Maintenance of existing structures, impervious surfaces, and landscaped areas as described below:
 - (a) Ongoing maintenance of pre-existing landscaped areas, including perimeter mowing, as long as natural vegetation is not disturbed and there is no excavation, filling or reduction of natural resource area. Use of integrated pest management methods is encouraged.
 - (b) Ongoing maintenance of existing development, such as repair, replacement, and use of existing buildings, roads, paths, utilities, bridges, culverts, fences, flood control structures, drainageways or facilities, detention facilities, water quality facilities, and other structures and impervious surfaces, provided that such practices avoid sedimentation and other discharges into streams, lakes, or wetlands and do not add impervious surface or remove additional vegetation.
- (9) Removal of live vegetation for the following purposes:
 - (a) Restoration and enhancement projects that have received required approvals from the appropriate local, state, or federal agency.
 - (b) Removal of non-native and invasive plants, including noxious weeds if consistent with local, state, and federal regulations, and replanted with species on the City's native plant list.
 - (c) Planting native vegetation on the City's native plant list.

- (d) Felling of trees planted as Christmas trees or orchard trees.

According to ADC 6.300, the following activities are subject to Natural Resource Impact Review, which can be processed concurrent with any land use application or building permit:

- A. Activities subject to review include:
 - (1) Land divisions;
 - (2) New structures, or exterior expansion of the footprint of any structure or driveways (Type I);
 - (3) Increases in impervious surfaces (Type I-L);
 - (4) Site modifications, including grading, excavation, fill or native vegetation removal (Type I-L);
 - (5) Private construction of public and privately owned transportation facilities and utilities not exempt through 6.290(4) (Type I-L); and
 - (6) Activities within the Habitat Assessment overlay district not exempt under ADC 6.290 (Type I).
- B. When a proposed use or activity requires a Natural Resource Impact Review, in addition to what is required for any concurrent land use applications or building permits, the applicant shall submit a scaled site plan to the City that that shows:
 - (1) Topographic contours at two-foot intervals;
 - (2) Ordinary high water (OHW) mark of all lakes, streams, or other waterways;
 - (3) Location of Riparian Corridor and Habitat Assessment overlay districts based on OHW;
 - (4) Location of Significant Wetland overlay district based on the LWI or DSL-approved delineation or determination;
 - (5) The 100-year flood boundary and elevation;
 - (6) Existing vegetative cover and species composition;
 - (7) Existing and proposed site improvements;
 - (8) How the requirements of the applicable review standards in ADC 6.310 will be met; and
 - (9) A mitigation plan if required per ADC 6.400-6.410.

ADC Section 6.310(A) states that a proposed activity will not be approved unless all of the following are true:

- (1) The proposed activity is allowed under the requirements of the base zone.
- (2) There are no other reasonably feasible options or locations outside the Significant Natural Resource overlay districts for the proposed activity on the subject parcel.
- (3) The proposed activity is designed, located and constructed to minimize excavation, grading, structures, impervious surfaces, loss of native vegetation, erosion, and adverse hydrological impacts on water resources. All activities are located as far from the water resources, and use as little of the surface area of the Significant Natural Resource overlay districts, to the extent reasonably feasible.

- (4) Any proposed impacts to significant natural resources will be mitigated per the standards in Sections 6.400 and 6.410.
- (5) Any applicable local, state, and federal permits are secured.
- (6) The additional requirements of ADC 6.310 (B) will be met.

ADC Section 6.310(B)(2) lists requirements, limitations and exceptions for activities within Significant Wetland Overlay and the Riparian Corridor Overlay:

- (1) Land Divisions. In addition to the regulations in Article 11, land partially situated in one of the City's natural resource districts can be divided only if there is sufficient land outside of any Significant Natural Resource overlay district to establish a development site area and/or separate a developed area from the natural resource areas. Applicants may also elect to follow the Cluster Development standards for land divisions in Article 11.
- (2) Structures and Land Altering Activities. The placement of structures and other impervious surfaces, as well as grading, excavation, placement of fill, and vegetation removal, are prohibited. Exceptions may be made for the purposes identified in items a-f of this Section, provided they are necessary to accommodate an approved activity and comply with any stated requirements for the activity or use.
 - (a) Water-Related and Water-Dependent Uses. Development of water-related and water-dependent uses.
 - (b) Permanent Alteration Within the Riparian Corridor. Disturbance or development within the Riparian Corridor overlay district shall be allowed under the following circumstances:
 - (i) The resource is characterized as 'marginal' or 'degraded' using the standards found in 6.410(5).
 - (ii) Demonstration that equal or better protection will be ensured through riparian corridor restoration and enhancement within the remaining overlay district area per the mitigation requirements in Sections 6.400 and 6.410. If the site is encumbered by easements or rights-of-way that would preclude onsite restoration or enhancement, an "in-lieu of payment" may be made to the City in the amount equal to the cost of onsite mitigation.

Residentially zoned lots that were created prior to December 1, 2011, that are less than 20,000 square feet and can't be further subdivided are allowed to encroach up to 25 feet into the Riparian Corridor overlay district without the requirement for restoration or enhancement of the remaining 25 feet. The mitigation requirements in Section 6.400 still apply.
 - (iii) In no case shall the site improvements be any closer than 25 feet from the Ordinary High Water mark or upland edge of the wetland, unless the improvements are otherwise allowed or exempted per this Section of the Code.
 - (c) Vegetation Removal. Removal of live vegetation that is not exempt under 6.290(9) is only allowed to accommodate an approved use or development activity under this section of the Code.
 - (d) Private Construction of Public Non-Master Planned Transportation Facilities and Privately Owned Transportation Facilities. In addition to other City standards, the following standards shall apply to the location and construction of public non-master planned and/or private transportation facilities and structures, such as driveways, local streets, bridges, bridge crossing support structures, culverts, and pedestrian and bike paths. In addition to other City standards, the following standards shall apply to privately constructed transportation facilities and structures:
 - (i) The facility is designed to be the minimum width necessary to allow for safe passage of vehicles, bicycles and/or pedestrians, and to meet minimum width requirements.
 - (ii) Where reasonably feasible, crossings of significant natural resources shall be aligned to minimize impact area.
 - (iii) The number of crossings is the minimum amount necessary to afford safe and efficient access.
 - (iv) The number of crossings is minimized where reasonably feasible through use and creation of shared access for abutting lots and access through easements for adjacent lots.

- (v) Crossing structures have a natural bottom or other design that meets ODFW fish passage requirements.
- (e) Private Construction of Public Non-Master Planned Utilities and Privately Owned Utilities. In addition to other City standards, the following standards shall apply to permitted crossing, trenching, or boring for the purpose of developing a corridor for public non-master planned utilities and private utilities, within or crossing parcels in Significant Natural Resource overlay districts, as well as any above-ground utility structures.
 In addition to other City standards, the following standards shall apply to privately constructed utility projects:
 - (i) Boring under the waterway, directional drilling, or aerial crossing is preferable to trenching. If trenching is the only feasible alternative, it shall be conducted in a dry or dewatered area with stream flow diverted around the construction area to prevent turbidity.
 - (ii) Common trenches for private utilities, to the extent allowed by the building code, shall be required where reasonably feasible in order to minimize disturbance of the protected resource.
 - (iii) Topsoil and sod shall be conserved during trench construction or maintenance, and replaced on top of the trench. Side-casting and storage of excavated material prior to replacement on top of trench is permitted. Any side-cast material not placed back on top of the trench shall be removed and may not be stored in the Significant Natural Resource overlay district after the construction or maintenance work is completed.
 - (iv) Hydraulic impacts on protected resources are minimized.
 - (v) Where reasonably feasible, crossings of significant natural resources shall be aligned to minimize impact area.
 - (vi) Above-ground utilities that cause ground disturbance in the Significant Natural Resource overlay district and are not within an existing right-of-way or easement, and are not shown in an approved master plan, will only be allowed in limited circumstances, and if they meet the general requirements in 6.310(A).
- (f) Adjustment or Variance. Development associated with an approved adjustment or variance.

ADC Sections 6.400 and 6.410 describes mitigation standards and plan submittal requirements. Note that if a State or Federal agency has jurisdiction regarding development impacts within the Riparian Corridor and Significant Wetland overlay districts, and they require mitigation for those impacts, the City will not impose additional mitigation requirements over the same area. Those portions of development impacts not mitigated through a State or Federal agency will be subject to local mitigation requirements, which are listed beginning in ADC 6.400(2).

ADC Section 6.450 states that the City may grant adjustments or variances to the standards in the Significant Natural Resource overlay districts in order to avoid rendering a property not buildable through application of this ordinance. Requests that cannot meet the provisions and review criteria for adjustments will be processed as a variance. Adjustment applications will be processed through the Type I land use process using the criteria in Section 6.450(2). Variance applications will be processed through the Type II process using the criteria in Section 2.690. The proposed activity or use must be allowed within the base zoning district in order to be considered for an adjustment or variance.

Compliance with State and Federal Regulations: According to ADC 6.460, activities wholly or partially within the Significant Natural Resource Overlay district(s) are subject to all applicable federal and state regulations. The following regulations commonly apply within the resource areas. (Note: other regulations not listed may also apply; it is the property owner's responsibility to adhere to all applicable State and Federal regulations):

- (1) Oregon Department of State Lands permit requirements under the Removal-Fill Law.

- (2) U.S. Army Corps of Engineers permit for fill activities as required under Section 404 of the Clean Water Act.
- (3) Department of Environmental Quality permit requirements for stormwater under the Clean Water Act and state water quality regulations.
- (4) Oregon Department of Fish and Wildlife regulations may apply to development activities that could impact one of the sensitive, threatened, critical, or endangered species indigenous to the region.
- (5) The federal Endangered Species Act prohibits any action that causes a "taking" of any listed species of endangered fish or wildlife.
- (6) The federal Migratory Bird Treaty Act prohibits taking, harming or moving any migratory bird, nest, or egg.

The State Archaeologist may request a Cultural Resource Review of the area proposed for development. Please contact Dr. Dennis Griffin, Oregon Parks and Recreation Department, at (503) 986-0674.

Approvals needed include, but may not be limited to:

- **"No-Rise" analysis certified by a registered professional engineer;**
- **Contact outside agencies including, but not limited to: DEQ, DSL, USACE, ODFW, and the State Archaeologist for permit requirements. ADC 6.090(4) requires the City to assure necessary permits have been received from government agencies and copies of those permits must be maintained on file;**
- **Acquisition of an access and utility easement from the city pending Council approval;**
- **Floodplain Development Permit (Site Plan Review, Type I-L) for development in the floodway allowed by ADC Sections 6.100 and 6.101;**
- **Site Plan Review for Tree Felling concurrent with development. Must meet criteria listed in ADC 9.208(2)(a) thru (d) (Type I-L process).**
- **Natural Resource Impact Review application;**
- **Building and Public Works permits associated with site development.**

Please contact the Planning Division for current application fees.



MEMO

TO: Albany City Council

VIA: Peter Troedsson, City Manager *PT*
 Jeff Blaine, P.E., Public Works Engineering and Community Development Director *JB*

FROM: Matthew Ruetters, P.L.S., Development Services Manager *MR*
 Ron Irish, Transportation Systems Analyst *R.I.*

DATE: May 27, 2020, for the June 22, 2020, City Council Work Session

SUBJECT: Infrastructure Funding Agreement for Columbus Street
 Relates to Strategic Plan theme: Great Neighborhoods; An Effective Government

Action Requested:
 Staff recommends Albany City Council authorize the city manager to enter into the attached Infrastructure Funding Agreement (IFA) (Attachment A).

Discussion:
 On January 6, 2020, council authorized staff to negotiate an agreement with the developer of Henshaw Farms, a proposed 226-lot subdivision located on the northwest corner of Columbus Street and Ellingson Road. Required conditions of the subdivision include construction of three separate Transportation System Plan (TSP) projects that are eligible for Transportation System Development Charge (TSDC) funding and credits, one of which being improving Columbus Street to a full urban standard (excepting sidewalk on the east side). Due to the unusual number of TSP projects conditioned to construct, the development is estimated to have just under one-million dollars in TSDCi credits it will not be able to take advantage of. Attachment B provides the details shared with council at the January 6, 2020, work session.

The basic concept of the IFA involves recognition of the unusual public infrastructure costs required of the development, the development's inability to use resulting credits on-site, and the eligibility of the project for TSDCi funds. The agreement facilitates the City in providing a contribution of \$500,000 from the TSDCi fund for the completed construction of Columbus Street improvements and right-of-way dedications (both as conditioned) in return for the developer agreeing to forgo submitting a reimbursement agreement for that same work. When Henshaw Farms forgoes the reimbursement agreement, future connection fee revenues would remain with the City. The TSDCi funds provided by the City would be largely offset through future payment of connection fees by the property along the east side of the road.

If authorized, the agreement will be executed, and staff will work with the developer's designee for the private design and construction of the Columbus Street improvements.

Budget Impact:
 Sufficient reserves exist in the TSDCi fund to facilitate the contribution without jeopardizing funding for previously committed projects.

MAR:ss
 Attachments (2)



**AN INFRASTRUCTURE FUNDING AGREEMENT
BETWEEN
THE CITY OF ALBANY, OREGON
AND
TRI-COUNTY INVESTMENTS, LLC**

PARTIES:

Tri-County Investments, LLC (referred to as “Developer”)
17933 NW Evergreen Place
Suite 300
Portland, OR 97204

City of Albany (“City”)
333 SW Broadalbin Street
Albany, OR 97321

RECITALS:

A. Developer has received tentative subdivision approval, with conditions, from the City for a 226-lot residential subdivision (Henshaw Farms), Planning file SD-01-14 & FP-01-14.

B. The Notice of Decision (NOD), including the conditions of approval, for the Henshaw Farms development is provided as Exhibit A to this agreement

C. Said conditions of approval include, but are not limited to, right-of-way dedications and significant public infrastructure improvements for streets, stormwater, water, and sewer.

D. The Henshaw Farms property is subject to an annexation agreement that requires full width street improvements on Columbus Street along the site’s frontage. This condition places a financial burden on the project not typical of those not subject to annexation agreements.

E. The conditions of approval include three separate City Transportation System Plan (TSP) projects that are eligible for Transportation System Development Charges improvement (TSDCi) funding and credits:

- i. Project L46 – Columbus Street: Project conditions of approval include a requirement to construct full street improvements along the development’s frontage on the road. This improvement is eligible for TSDCi credits up to 25 percent.
- ii. Project L53 – Ellingson Road: Project conditions of approval include a requirement to construct partial street improvements along the development’s frontage on the road, and dedication of additional street right-of-way. The street improvements are eligible for TSDCi credits up to 25 percent. The extra right-of-way acquisition needed for an ultimate five-lane section on the road is eligible for TSDCi credit of 100 percent.
- iii. Project L62 – Oak Creek Parkway: Project conditions of approval include a requirement to construct full street improvements and to keep 50 percent of the north side of the street as open space. The improvement is eligible for TSDCi credits up to 25 percent.

F. Developer is entitled to enter into the City's standard System Development Charge Credit Agreement to recover costs associated with eligible portions of public infrastructure including (1) the oversized portion of water and sewer infrastructure, and (2) eligible street improvements. (In no way does incorporation of this recital provide any rights or agreements that are not otherwise available as part of Albany's standard development process.)

G. Based on Developer's construction cost estimate, the available TSDCi credit will exceed what can be used on the project by more than \$900,000.

H. Developer is also entitled to enter into the City's standard Capital Recovery Agreement to recover costs associated with eligible portions of public infrastructure. These costs are recovered through the collection of connection fees per Albany Municipal Code (AMC) 15.30. (In no way does incorporation of this recital provide any rights or agreements that are not otherwise available as part of Albany's standard development process.)

I. Based on current connection fee rates, the amount of future connection fees that could be collected from properties benefitting from street improvements constructed with the Henshaw Farms development is approximately \$325,000.

J. The Developer has indicated the costs of complying with wetland requirements and constructing the required street and utility improvements without the ability to make full use of the associated TSDCi credits make the project financially unfeasible.

K. Public improvements constructed with the Henshaw Farms development are critical for developing neighboring properties and realizing the community benefits identified in the South Albany Areas Plan (SAAP).

L. Developer and City agree that an infrastructure funding agreement for public improvements is in the best interest of both parties.

TERMS:

1. The Recitals above are incorporated in these Terms.
2. Developer agrees to design and construct all public improvements as conditioned in Exhibit A for the Henshaw Farms development to the degree that those improvements are required for any phase of development that the Developer actually constructs.
3. Developer agrees to construct full street improvements in/on Columbus Street from the project's north boundary to Seven Mile Lane with the first phase of the Henshaw Farms development. All improvements shall be designed and constructed in compliance with local, state, and federal regulations.

4. The Developer agrees to dedicate required right-of-way along both Columbus Street and Ellingson Road as per the conditions of approval contained in the Notice of Decision for Henshaw Farms (Exhibit A). All right-of-way shall be dedicated prior to issuance of the Site Improvement (SI) construction permit, or January 1, 2021, whichever occurs first.
5. The City agrees to pursue timely reviews for applications made to the City of Albany to construct the Columbus Street Improvements.
6. Developer agrees to waive any rights to and forgo entering into, a Capital Recovery Agreement for the Columbus Street Improvements. As a result, any related Connection Fee revenue will stay with the City.
7. Within thirty (30) days of the effective date of this agreement, City agrees to deposit \$500,000 into an escrow account of the City's choosing. Said funds shall be released to Developer when all right-of-way has been dedicated and construction of Columbus Street Improvements is complete. "Completion" is considered City acceptance of the improvements following satisfaction of all requirements under the City's SI permit and the project entering the 1-year warranty period (See AMC Title 15).
8. Developer agrees to have approved SI plans for the Columbus Street Improvements by January 1, 2021 and complete the construction of the Columbus Street Improvements on or before October 31, 2022.
9. This agreement does not waive or vary any conditions or requirements related to the Henshaw Farms development. All standard permitting requirements and conditions apply. Developer acknowledges that this agreement does not waive or defer any requirements related to their development plans.
10. In the event that the Columbus Street Improvements are not completed on or before October 31, 2022, at the City's sole discretion, the City may choose to deem this agreement null and void and all monies deposited by the City into the escrow account shall be returned to the City.
11. The following additional terms apply:
 - (a) **Amendments, Supplements, and Modifications.** This agreement may be amended, supplemented, or modified only by mutual agreement of the parties. No modification, amendments, or extension of time shall be binding unless in writing and signed by the parties.
 - (b) **Expiration.** This agreement shall expire upon completion of the Columbus Street Improvements (including satisfying any/all related permit and land use conditions and requirements) and subsequent release of funds in escrow to the Developer or January 1, 2023 whichever occurs first. In the event of expiration of this agreement, all funds deposited by the City into the escrow account shall be returned to the City.
 - (c) **No Third-Party Beneficiaries.** No third party is intended to be benefitted or afforded any legal rights under or by virtue of this agreement.

(d) **Venue.** In any action brought to interpret or enforce any of the provisions of this agreement, the venue will be in the Circuit Court in and for Linn County, Oregon.

(e) **Applicable Law.** This agreement will be construed, applied, and enforced in accordance with the laws of the state of Oregon. All sums referred to in this agreement will be calculated by and payable in the lawful currency of the United States.

(f) **Entire Agreement.** This agreement constitutes the entire agreement of the parties with respect to the property and supersedes and replaces all written and oral agreements previously made or existing between the parties.

(g) **Counterparts.** This agreement may be executed simultaneously or in counterparts, each of which will be deemed an original, but all of which together will constitute one and the same agreement.

(h) **Neutral Construction.** This agreement has been negotiated with each party having the opportunity to consult with legal counsel and will be construed without regard to which party drafted all or part of this agreement.

(i) **Captions.** The captions of the sections and paragraphs in this agreement are used solely for convenience and are not intended to limit or otherwise modify the provisions of this agreement.

(j) **Waiver.** The failure of either party at any time to require performance of any provision of this agreement will not limit the party's right to enforce the provision. Waiver of any breach of any provision will not be a waiver of any succeeding breach of the provision or a waiver of the provision itself or any other provision.

(k) **Notices.** Notices under this agreement must be in writing and, if personally delivered or sent by facsimile, will be effective when received. If mailed, a notice will be deemed effective on the second day after deposited as registered or certified mail, postage prepaid, directed to the other party. Notices must be delivered or mailed to the following addresses.

Dated: _____, 2020

City of Albany

By Peter Troedsson, Albany City Manager

STATE OF OREGON)
County of Linn) ss.
City of Albany)

The foregoing instrument was acknowledged before me this ____ day of _____, 2020, by Peter Troedsson, City Manager for the City of Albany, as his voluntary act and deed.

Notary Public for Oregon
Commission Expires: _____



COMMUNITY DEVELOPMENT DEPARTMENT

333 Broadalbin Street SW, P.O. Box 490
Albany OR 97321

Ph: 541-917-7550 Fax: 541-917-7598
www.cityofalbany.net

NOTICE OF DECISION

DATE OF NOTICE:	May 23, 2014
FILE:	SD-01-14 & FP-01-14
TYPE OF APPLICATION:	Tentative Plat Subdivision for a phased subdivision to create 226 lots with Floodplain Development Review
REVIEW BODY:	Planning Commission (Type III application)
PROPERTY OWNERS/APPLICANTS:	Tri-County Investments LLC; 17933 NW Evergreen Parkway, Ste. 300; Beaverton, OR 97006-7438
AUTHORIZED AGENT:	Sean Keys; Tri-County Investments LLC; 17933 NW Evergreen Parkway, Ste. 300; Beaverton, OR 97006-7438
ENGINEER:	Mark Grenz; Multi/Tech Engineering; 1155 13 th Street SE; Salem, OR 97302; (503) 363-9227
PROPERTY LOCATION:	6150 Columbus Street SE
MAP/TAX LOT:	Linn County Assessor's Map No. 11S-03W-29; Tax Lot 300
ZONING:	Residential Single Family (RS-5); Residential Medium Density (RM); Mixed Use Commercial (MUC); Open Space (OS); Significant Wetland Overlay (/SW); Floodplain Overlay (FP); and Riparian Corridor Overlay (/RC)

On May 19, 2014, the City of Albany Planning Commission granted **APPROVAL WITH CONDITIONS** of the application referenced above.

The City based its decision on the project's conformance with the review criteria listed in the Albany Development Code. The supporting documentation relied upon by the City in making this decision is available for review at City Hall, 333 Broadalbin Street SW. Conditions of approval are attached to this notice. For more information, please contact Project Planner Melissa Anderson, at melissa.anderson@cityofalbany.net, 541-917-7550, or Mark Shepard, Director of Public Works and Community Development, at 541-917-7634.

The City's decision may be appealed to the City Council, if a person with standing files a completed Notice to Appeal application and the associated filing fee no later than 10 days from the date the City mails the Notice of Decision. The applicant may proceed, at his own risk, prior to the end of the appeal period, provided he signs a Release and Indemnity Agreement with the City.

This approval expires in three years, unless the applicant has installed and/or bonded for all public improvements related to the development or a valid building permit exists for the building approved as part of the development.

Signature on File

Planning Commission Chair

Attachments: Conditions of Approval, Information for the Applicant, Location Map Tentative Subdivision Plans (4 Sheets)

Notice of Decision SD-01-1 & FP-01-14, Page 1

Routing: (For Department Use Only)

Property Owner/Applicant	1
Applicant's Engineer	1
Participating Parties	6
Building Division (Gary Stutzman)	1
Parks & Recreation (Ed Hodney)	1
Finance Department (Linda Lamer)*	1
Fire Department	1
Public Works Engineering (Gordon S.)	1
Public Works Traffic Engineering	1
Public Works GIS (Willis H.)**	1
Benton/Linn County Surveyor ***	1
GAPS (Wayne Goates/Russ Allen)****	1
USACE: benny.a.dean@usace.army.mil	Email
Dept. of State Lands: dsl@dsl.state.or.us	Email
Century Link: travis.vaughn@centurylink.com	Email
BPA: JLKinch@bpa.gov	Email
File SD-01-14 & FP-01-14	1

* LA, PA, PD, RL & SD only.

** CP (map), LA, PA, PD, RL &/or ZC only.

*** PA, LA, and SD only.

**** SD only

CONDITIONS OF APPROVAL

FILE: SD-01-14 & FP-01-14

Tentative Plat Subdivision for a phased subdivision to create 226 lots with Floodplain Development Review

Tentative Subdivision Plat Review Criteria, ADC 11.180(1-5):

- 1.1 Prior to dedicating Tract 1 to the City of Albany, the land must be free of encumbrances and released from any conditions pertaining to permits from the Department of State Lands (DSL) and the U.S. Army Corps of Engineers (ACOE).
- 1.2 Prior to City approval of the Final Subdivision Plat of the initial phase of the subdivision, a copy of the agreement between the property owner and BPA shall be provided to the Albany Community Development Department to ensure the developer has a right to use the land within the easement as proposed.
- 1.3 Prior to City approval of the Final Subdivision Plat of the initial phase of the subdivision, Tract 5 (south of Ellingson Road) and Lots 2 and 3 (northwest corner of Ellingson and Columbus) shall be combined into one Tract of land as a single unit of property.

Transportation - General:

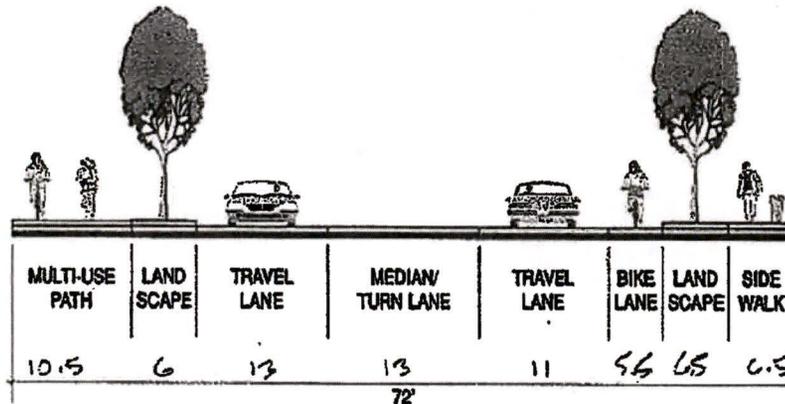
- 3.1 The applicant shall construct to city standards all public streets interior to the development. The right-of-way widths and curb to curb widths shall be as identified on the Tentative Plat Map.
- 3.2 Project phasing and interior street construction must demonstrate compliance with applicable Fire Code requirements relating to the need for secondary access and access point spacing.
- 3.3 The applicant shall install public sidewalk with the construction of street improvements along the public street frontage of all lots and tracts of land that do not have future development potential. Sidewalk installation along the frontage on newly created parcels adjoining streets with a local street classification can be deferred to development of individual lots.
- 3.4 The applicant shall, with the first phase of the development, dedicate public street right of way along the site's frontages on Columbus Street and Ellingson Road. The right of way dedication shall conform to the cross sections identified in the adopted South Albany Area Plan. Dedication widths shall be:
 - a. 10' of right of way along the west side of Columbus Street from Ellingson Road to the site's south boundary.
 - b. 23' of right of way dedication along both the north and south side of Ellingson Road from Columbus Street to the site's west boundary.
 - c. Dedication of right of way for construction of a roundabout at the Ellingson/Columbus intersection. Dedication will involve lot's 2 & 3, and tracts 2 & 5. Dedication shall be based on the roundabout concept plan developed by David Evans & Associates, Inc.
- 3.5 The applicant shall, with the first phase of the development, dedicate a 10 foot wide public access easement along Tracts 2, 3, and 4 for a future pathway. The easement shall follow the alignment of the access road proposed for maintenance of the detention facilities and overhead power transmission facilities.
- 3.6 The applicant shall provide a "Petition for Improvement/Waiver of Remonstrance" for participation in a future assessment district to improve Columbus Street and Ellingson Road along the site's frontage and construction of a roundabout at the Ellingson/Columbus intersection.

- 3.7 The applicant shall, with Phase F, install a 20 foot wide concrete walkway between lots 80 and 81. The design of the walkway shall provide for a Fire Department turn around at its connection to G Court.
- 3.8 On street parking shall be restricted along "A" Drive between Ellingson Road and the north boundary of lot 201.
- 3.9 On street parking shall be restricted along "E" Avenue between Ellingson Road and "B" Street.
- 3.10 On street parking shall be restricted along the first 100 feet of Seven Mile Lane from Columbus Street west.
- 3.11 The applicant shall install street lighting and street name signs to city standards on all public streets within the development.

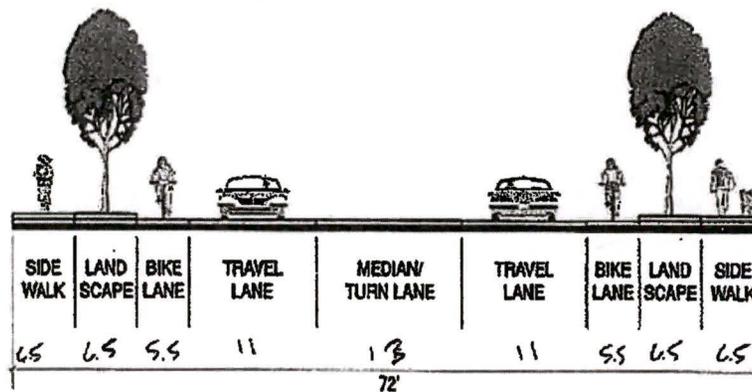
Columbus Street:

- 3.12 Columbus Street shall be improved from the development's north boundary south to Seven Mile Lane with the first of the following to occur:
 - a. With construction of the 4th phase of the development to record.
 - b. At the time of creation of the 112th single family lot.
 - c. With a local street connection to Columbus Street.
 - i. If the first local street connection is Oak Creek Parkway, Columbus must be improved from the development's north boundary to and thru this intersection.
 - ii. Columbus must be improved from the development's north boundary thru the Seven Mile Lane intersection with the connection of Seven Mile Lane to Columbus Street.¹
- 3.13 Improvements to Columbus Street shall conform to the South Albany Area Plan. Improvements are illustrated in the cross-section diagram below and include the following:
 - a. Curb and gutter along both sides of the street.
 - b. Sidewalk along the west side of the street, from Oak Creek Parkway south to Seven Mile Lane.
 - c. A vehicle travel lane in each direction and median/two way center turn lane.
 - d. A northbound bike lane along the east side of the road.
 - e. A southbound bike lane on the west side of the road between Oak Creek Parkway and Seven Mile Lane.
 - f. A 10 foot wide concrete multi-use path along the west side of the road from the Oak Creek Bridge south to Oak Creek Parkway.

Columbus Multi-Use Trail Cross Section



Columbus Typical Cross Section



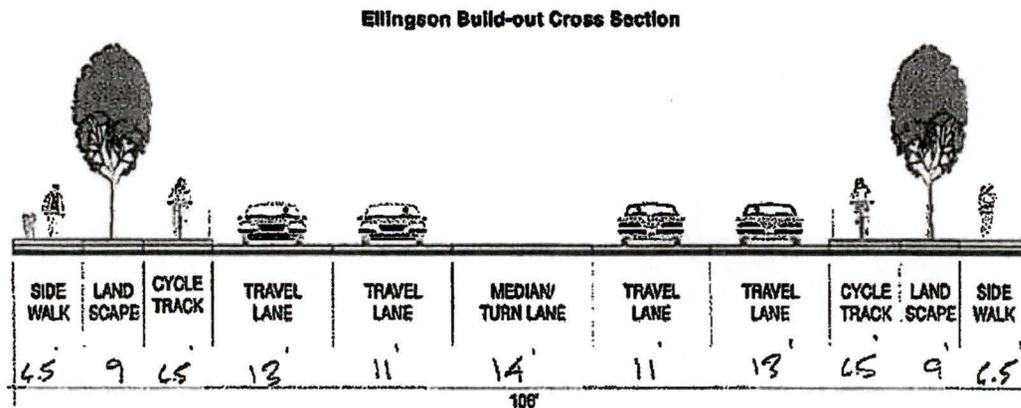
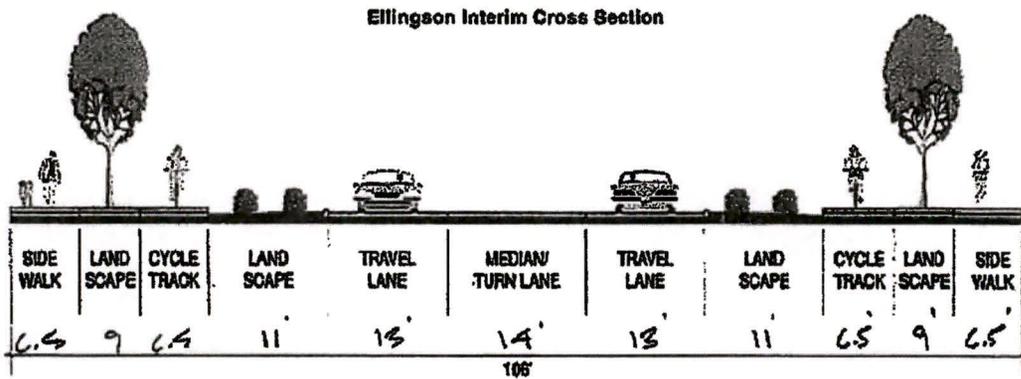
- 3.14 The design of the pavement structural section shall conform to Albany's Engineering Standards and shall be approved by the City Engineer.
- 3.15 If Columbus Street is not fully improved with the first phase of the development; the utility work done with the first phase shall include an asphalt overlay over the full width of Columbus Street between the Oak Creek Bridge and 7 Mile Lane as part of the pavement repair work necessary over utility trenches. The thickness of the overlay shall be approved by the City Engineer but shall in no case be less than 2 inches. The use of an overlay does not preclude the possibility of the need for pavement reconstruction when the full street improvements identified above are constructed.

Ellingson Road:

- 3.16 Ellingson Road shall be improved from the site's west boundary to "E" Avenue with Phase A.
- 3.17 Improvements to Ellingson Road shall conform to the South Albany Area Plan. Improvements are illustrated in the cross-section diagram below and include the following:
 - a. Curb, gutter, and setback sidewalk along the north side of the street.
 - b. A vehicle travel lane in each direction and median/two way center turn lane. The median island shall be designed to restrict vehicle movements to right in and right out, and allow for

crossing bicycle and pedestrian movements. In the event Phase A is the first phase of the development to be constructed, installation of the median island improvements and associated turn restrictions can be deferred and constructed with the first project street connection to Columbus Street.

- c. A westbound cycle track along the north side of the road.
- d. Landscaping along the north side of the road between the sidewalk and cycle track, and the cycle track and the north curb and gutter.



3.18 The design of the pavement structural section shall conform to Albany's Engineering Standards and shall be approved by the City Engineer.

Utilities:

4.1 Before the City will give final approval to any phase of the proposed subdivision, the applicant must construct public utility extensions (sanitary sewer, water, storm drainage) as needed to provide service to the lots to be created within that phase, and to provide for future extensions to surrounding properties. These utility extensions must conform to the requirements established in the City's Engineering Standards, Construction Specifications, and Facilities Plans. Final design details for all public utilities must be reviewed and approved by the City's Engineering Division as part of the Permit for Private Construction of Public Improvements.

- 4.2 Before the City will give final approval for the first phase of the proposed subdivision, the applicant must either: install a 16-inch public water main from the end of the existing main in Columbus Street to the point where the subject property's west boundary intersects with Ellingson Road; or, provide a public utility easement over the subject property as needed from the end of the extension of the 16-inch main for the first phase of the project to Ellingson Road. The intent of this public easement is to provide a route for the City to complete the extension of the 16-inch public water main through the site in the event that the City deems it necessary before development of the subdivision brings the main to that point.
- 4.3 Before the City will give final approval for the first phase of the subdivision, the applicant must establish a legal entity (e.g., homeowners' association) assuring private maintenance of the storm water detention facilities and any water quality facilities that are constructed outside of the public right-of-way.
- 4.4 Before the City will give final approval for any phase of the proposed subdivision, the applicant must submit a storm drainage plan that shows that the proposed storm water facilities for that phase will be adequate for that phase, and can be incorporated into future phases of development.
- 4.5 Before the City will give final approval for the first phase of the proposed subdivision, the applicant must pay all in-lieu-of assessments and/or connection charges for existing public utility improvements benefitting the subject property.
- 4.6 Unless alternative methods for fire safety are approved by the Fire Marshall, the following standards must be met at each phase of the subdivision:
 - a. Residential developments/projects of one- or two-family dwellings where the number of dwellings exceeds 30 shall be provided with at least 2 means of fire apparatus access. These access points shall be remotely separated by at least ½ the length of the maximum overall diagonal dimension of the property or area served (OFC Appendix D107.1).
 - b. Approved fire apparatus roadways must extend to within 150 feet of all exterior portions of any structure that will be built on the property as measured by an approved route of travel around the exterior of the structure (OFC 503.1.1).
 - c. Dead-end fire apparatus roads in excess of 150 feet in length shall be provided with an approved area for turning around fire apparatus (OFC 503.2.5 and D103.4).

Special Purpose Districts:

- 5.1 Prior to impacting land areas regulated under a required state or federal permit, the applicant shall provide the Community Development Department with a copy of the approved permits (e.g. NPDES permit, DSL permit, ACOE permit).
- 5.2 Upon completion of the fill project on Lots 86 and 87, the following documentation shall be submitted to the Community Development Department:
 - a) As-built drawings;
 - b) Elevation certificate; and
 - c) Letter from the Engineer of Record who is licensed in the state of Oregon, stating that the fill was placed in accordance with the signed plans.
- 5.3 Prior to City approval of the final subdivision plat for the initial phase, the grove of Oak trees and the boundary of clearing limits on Lot 2 (of Phase G) shall be identified and protected as required by the annexation agreement and the SAAP.

Lot and Block Arrangement, ADC 11.090:

- 3.1 Prior to issuance of a certificate of occupancy for new residences on Lots 212-226 abutting Ellingson Road (Phase A), a 6-foot fence made of uniform material shall be constructed by the developer along the rear yards of these lots.
- 3.2 Prior to City approval of the first phase of the subdivision, the applicant must establish a legal entity (e.g. homeowners' association) assuring private maintenance of the fencing along Ellingson Road.

INFORMATION FOR THE APPLICANT
FILE: SD-01-14 & FP-01-14

Please read through the following requirements. This list is not meant to be all-inclusive; we have tried to compile requirements that relate to your specific type of development. These requirements are not conditions of the land use decision. They are Albany Municipal Code or Albany Development Code regulations or administrative policies of the Planning, Engineering, Fire, and/or Building Departments that you must meet as part of the development process.

PLANNING

1. Land use approval does not constitute Building or Public Works permit approvals.
2. Subdivisions are reviewed at two stages: Tentative subdivision plat and final subdivision plat. The final plat is reviewed for conformance to the tentative plat as approved (with or without conditions) and applicable state or county laws or rules. The final plat must be prepared by a licensed land surveyor and is the instrument by which the land division is recorded. The subdivision is not complete until a final plat is approved and signed by the City, then signed by and recorded at Linn County.
3. Fill is proposed on Lots 86 and 87 to raise the ground elevation above the base flood elevation. Unless a letter of map revision based on fill (LOMR-F) is approved by FEMA prior to submission of an application for building permits on Lots 86 and 87, pre- and post-construction elevation certificates will be required.
4. Sections of the Albany Development Code relating to expirations of and use approvals for phased subdivisions and requests to extend land use approvals are listed below.

ADC 1.080:

Expiration of Land Use Approvals.

- (1) All land use approvals, except Type IV approvals, shall expire three years from the date of approval, unless:
 - (a) The applicant has installed all of the required public infrastructure related to the development and the infrastructure has been accepted by the city, or the applicant has provided financial assurance for all required public infrastructure per Section 12.600 or the first phase, if the development was approved for phased construction; or
 - (b) If the development did not require public infrastructure, a valid approved building permit exists for new construction or improvements, and work has commenced; or
 - (c) Phased Subdivisions or Planned Developments. When an applicant desires to develop and record final subdivision plats covering portions of an approved tentative plat in phases, the City may authorize a time schedule for platting and otherwise developing the various phases not to exceed five years for all phases. Each phase that is platted and developed shall conform to the applicable requirements of this title; or
 - (d) An extension has been granted pursuant to Section 1.083. [Ord. 5832, 4/9/14]

ADC 1.083:

Extension of a Land Use Approval. These provisions apply to all land use approvals that have not expired or for which a written request for an extension was received prior to the effective date of this Section 1.083. [Ord. 5832, 4/9/14]

- (1) Whenever the decision requires exercise of approval rights or satisfaction of conditions of approval within a particular period of time, the approval period may be extended one time for two years for all land use approvals, except for phased or planned developments, a second two-year extension may be granted. Applicants shall apply for an extension by filing an application for extension at least 45 days before the expiration date. For the purposes of this sub-section the expiration date shall be the applicable anniversary date of the Notice of Decision previously given to the applicant.
- (2) Requests for extensions shall be processed as Type I application and shall be granted if there has been no change to all applicable local, state or federal standards since the original approval, or the development complies with any changes or can meet the current standards with limited modifications to the approved development.
- (3) While an application for extension is pending, no further action to develop the subject property or expand any use dependent upon the approval shall be taken subsequent to the expiration of the approval period; but existing established uses may continue during the time the extension request is pending. [Ord. 5832, 4/9/14]

BUILDING DIVISION

1. Obtain Building Permits prior to start of any building construction or remodel.
2. Obtain Demolition Permits from the Building Division prior to demolition of any structure. An Asbestos survey will most likely be required by DEQ. Please call 1-800-349-7677 for details.
3. Obtain Erosion Prevention and Sediment Control (EPSC) permit prior to any earth work.
4. Each structure must meet the property line setbacks required by the City of Albany Development Code and State Building Codes and Zoning requirements per **Oregon Residential Specialty Code (ORSC) Section R302.1**
5. Each lot must be served by its own utilities.
6. Foundation and soil investigation reports shall be provided at building permit plan submittal. This evaluation shall be conducted by an especially qualified engineer or engineering geologist registered by the State of Oregon to practice as such. **OSSC 1802.1.**
7. New property lines shall not pass through existing buildings.
8. Easements are required for access and utilities across neighboring properties.

ENGINEERING

The City of Albany's infrastructure records, drawings, and other documents have been gathered over many decades, using differing standards for quality control, documentation, and verification. All information provided represents the current information we have in a readily available format. While the information we provide is generally believed to be accurate, occasionally this information proves to be incorrect, and thus we do not warrant its accuracy. Prior to making any property purchases or other investments based, in full or in part, upon the information provided, we specifically advise that you independently field verify the information contained within our records.

All public utilities must be installed in accordance with the City's Standard Construction Specifications. If being constructed under a private contract, the developer must obtain a Permit for Private Construction of Public Improvements through the City's Engineering Division.

Connection charges. A Connection Charge shall be due and payable when accessing the City's water distribution facilities from or for the benefit of any real property against which no assessment has previously been levied or for which the cost of constructing the water facilities has not been paid by the property owner or predecessor thereof (AMC 15.30.010).

15.30.010 Application of connection charges. Except as provided in Chapter 10.16 AMC, relating to properties within the North Albany sanitary basin, a connection charge shall be due and payable when any person, corporation, or legal entity, connects to or accesses the City's sanitary sewers, water distribution facilities, storm drains, and/or improved streets, from or for the benefit of any real property against which no assessment has previously been levied or for which the cost of constructing the sanitary sewer, water distribution facility, storm drain, and/or improved street has not been paid by the property owner or predecessor thereof. The City Council shall by separate resolution establish, and may from time to time amend, a methodology which shall be used to determine the criteria by which a determination will be made concerning the application of any particular connection charge to any particular property within the City. (Ord. 5565 § 4, 2003).

15.30.020 Timing and procedures for determination of connection charge. If the sanitary sewer, water distribution facility, storm drain, and/or improved street is to be utilized pursuant to any activity involving a land division, the amount of the applicable connection charge shall be paid, in full, prior to the signing of the final plat. In all other cases, the connection charge shall be assessed and paid, in full, prior to the issuance of any building permit or encroachment permit authorizing construction on real property which will utilize or connect to any of the City facilities in AMC 15.30.010. (Ord. 5565 § 4, 2003).

TRANSPORTATION

Some of the right of way dedication and street improvements identified as conditions of this development are included in Albany's Transportation System Plan as being eligible for TSDC fee funding and credit. The maximum available credit for any individual project is set by Albany's TSDC funding methodology and funded project list. The projects in this development that are eligible for TSDC credit include:

- 24 feet of the right of way dedication width required along the site's frontage on Ellingson Road.
- 25% of the street construction cost for Oak Creek Parkway.
- 25% of the street construction cost for Columbus Street.
- 25% of the street construction cost for Ellingson Road.
- 50% of the right of way dedication necessary for the Ellingson/Columbus roundabout.

The applicant also has the ability to enter into a reimbursement agreement with the City for street and storm drainage costs for improvements to the east side of Columbus Street.

FIRE

The fire department has reviewed the above project for conformance to the 2010 Oregon Fire Code (OFC) per your request and has the following comments:

1. Residential developments/projects of one- or two-family dwellings where the number of dwellings exceeds 30 shall be provided with at least 2 means of fire apparatus access. These access points shall be remotely separated by at least ½ the length of the maximum overall diagonal dimension of the property or area served. (OFC Appendix D107.1)

This submittal contains multiple options for phasing and the sequence of the phasing has not been declared. This fire access road separation requirement shall be triggered when any single phase or group of phases creates a condition where the number qualifying dwellings served by a single access road exceeds 30. Special attention should be paid, but not limited to, the phases served by your proposed roads named Oak creek Parkway and 'G' Court.

The number of units served by a single access road may exceed 30 provided all of the units in the area or phase are provided with an approved residential fire sprinkler system. Phasing of lots in increments of 30 or less cannot be used to circumvent this requirement.

2. Approved fire apparatus roadways must extend to within 150 feet of all exterior portions of any structure that will be built on the property as measured by an approved route of travel around the exterior of the structure. (OFC 503.1.1)
3. Dead-end fire apparatus roads in excess of 150 feet in length shall be provided with an approved area for turning around fire apparatus (OFC 503.2.5 and D103.4)
4. This proposed project is located within a "Protected Area" as defined by Oregon Fire Code (OFC) Appendix B, Section B102 and this area will be required to be served by a public water system. The Fire Flow required for shall be as specified in Appendix B of the fire code. (OFC 507.3)
5. The location and spacing requirements for fire hydrants are based on four project-specific criteria:
 - The distance from the most remote exterior point of the building(s) to the closest available fire hydrant.
 - The calculated "fire flow" of the proposed building(s)
 - The spacing of the existing fire hydrants along the public and private fire apparatus roads serving the properties.
 - The location of new required public or private fire apparatus access roads located adjacent to the proposed building(s) to be constructed.

The requirements for fire hydrants for this proposed project will be based on the following requirements:

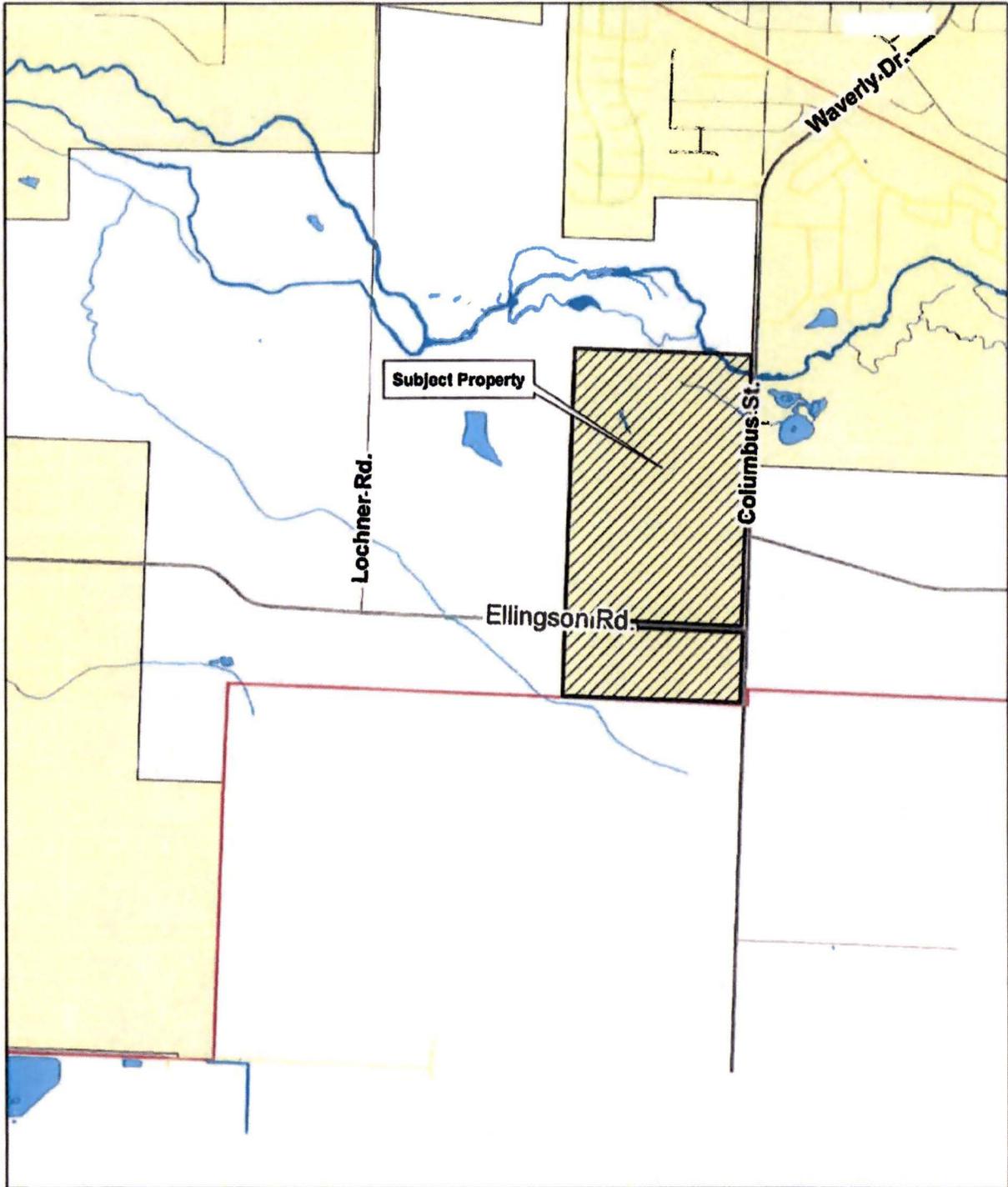
- a. Fire hydrant location: All portions of buildings constructed or moved into the City shall be located within 400 feet (600 feet for residential and fire sprinkler-protected buildings) of a fire hydrant located on a fire apparatus access road using an approved route of travel. (OFC 508.5.1)
- b. Required fire hydrant spacing will be based upon your required fire flows as determined by OFC Appendix C105.1 and Table C105.1. Please note that dead end roads require a reduced spacing.

- c. Existing fire hydrant spacing. In addition, OFC Section C105.10; requires the placement of additional hydrants along all of your required fire access roads that are adjacent to any proposed building (and any future additions) and circulating through your private property with spacing requirements per Appendix C 105.1. (See *2009 ICC Commentary*, Appendix C-1, Section C103.1).

The maximum spacing for fire hydrants for this project shall be 500 feet (400 feet for dead-end roads, including cul-de-sacs) designed so that no portion along any of the circulating access roads is greater than 250 feet from a fire hydrant. This distance shall reduced to 200 feet for dead-end and cul-de-sac terminating roads.

Each public fire hydrant shall be capable of supplying a minimum of 1,500 gpm at a minimum of 20 psi as a single point flow.

6. All fire hydrants shall be provided with approved STORZ fittings (C 102.1). Public fire hydrants shall be painted in accordance with Public Works Department Standards.



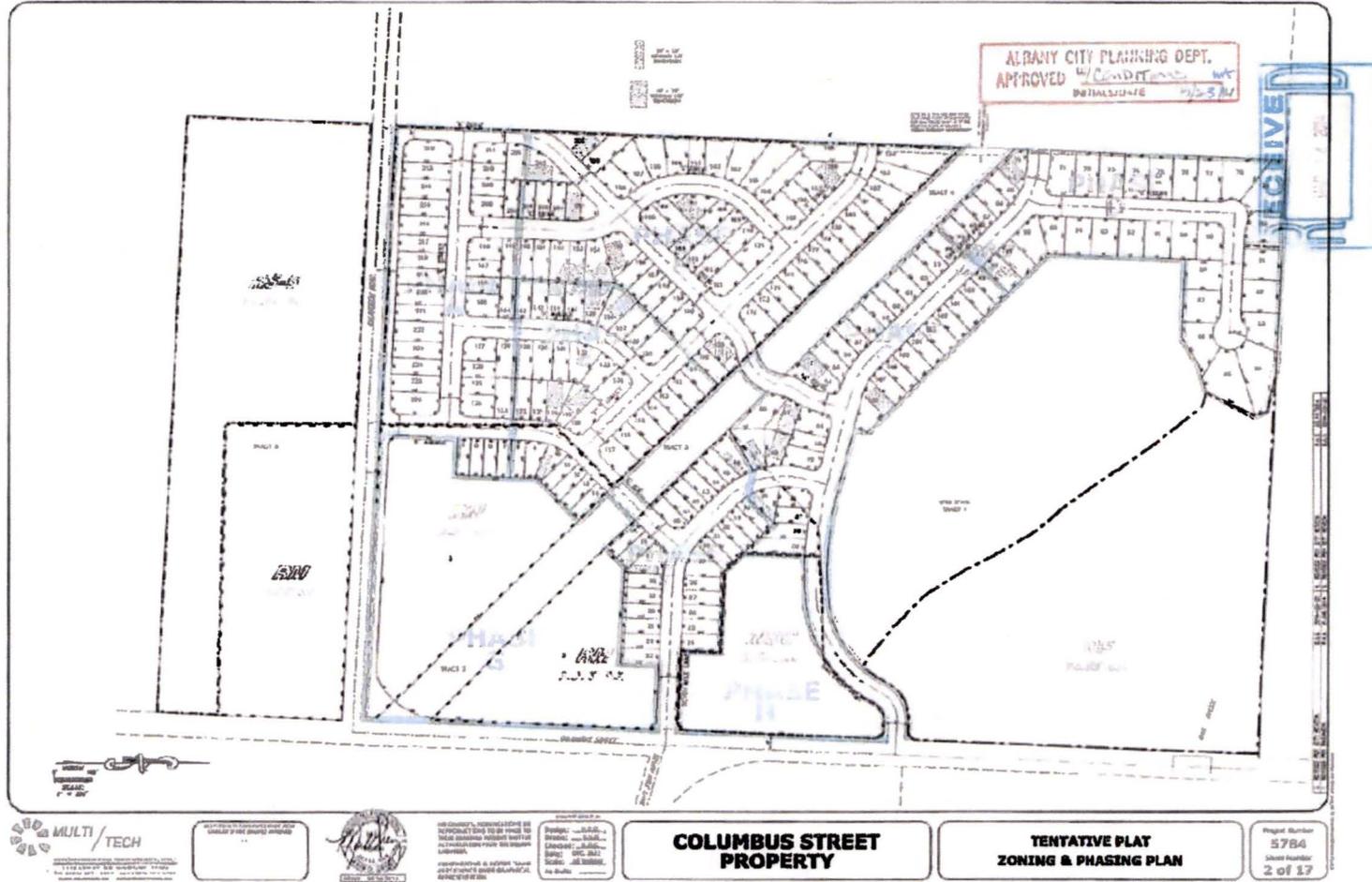
LOCATION MAP: 6150 Columbus Street SE

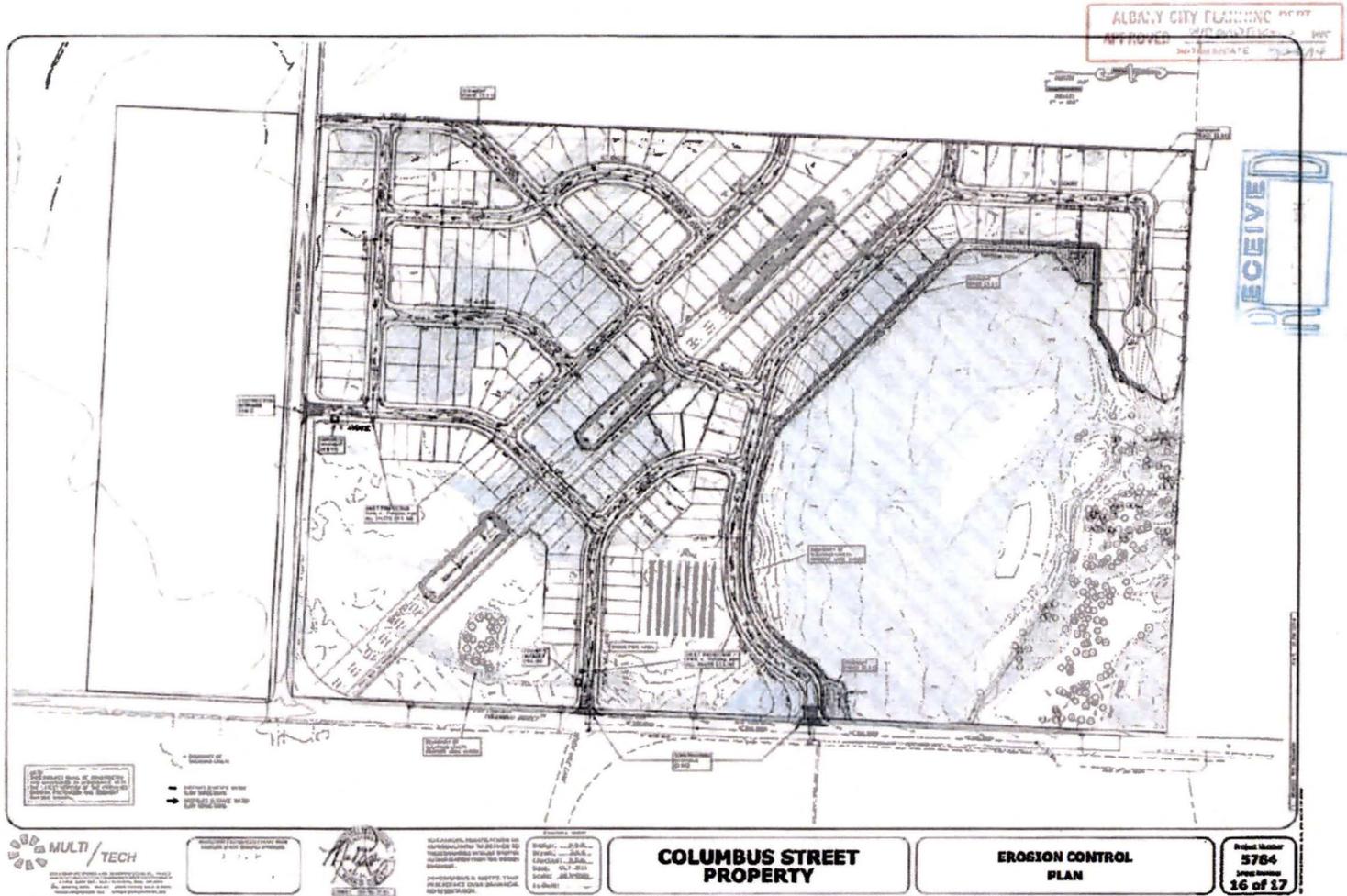

The City of Albany's information, maps, drawings, and other materials have been prepared over many decades, using various standards for quality control, accuracy, and reliability. All of the data provided represents our best information at the time it was prepared. While the data provided is generally believed to be accurate, users should be aware that the data is not guaranteed. Please be advised that the information provided is for informational purposes only and should not be used for any other purpose. It is specifically advised that you independently verify the accuracy of the information provided.

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Foot

July 15, 2013
Planning Division
City of Albany - 333 Broadalbin St. SW, Albany, Oregon 97321 (541) 817- 7550







MEMO

TO Albany City Council

VIA Peter Troedsson, City Manager *PT*
 Jeff Blaine, P.E., Public Works Engineering & Community Development Director *JB*

FROM Matthew Ruetters, Development Services Manager
 Ron Irish, Transportation Systems Analyst *RI*

DATE December 18, 2019, for the January 6, 2020, City Council Work Session

SUBJECT: Columbus Street Funding Discussion
 Relates to Strategic Plan theme Great Neighborhoods

Action Requested:

Staff recommends Council direct staff to negotiate a development agreement for the Henshaw Farms subdivision that would provide for an up-front City contribution of TSDCi funds for the construction of Columbus Street in return for the developer forgoing a reimbursement agreement for the connection fee-eligible portion of the improvement. Prior to implementation, a draft of the agreement would be brought back for council review and approval.

Discussion:

Henshaw Farms is a 226-lot subdivision approved by the Albany Planning Commission on May 19, 2014 (Attachment A). The development is located on the northwest corner of Columbus Street and Ellingson Road. The project is located within the boundary of the adopted South Albany Area Plan (SAAP) (See Attachment B). Conditions were imposed on the development in conformance with Albany Development Code standards, the SAAP, and an earlier annexation agreement put in place when the site was annexed into the City. Required conditions included construction of three separate Transportation System Plan (TSP) projects that are eligible for TSDCi funding and credits:

- **Project L46 – Columbus Street:** Project conditions included a requirement to construct full street improvements along the development's frontage on the road. The improvement is eligible for TSDCi credits up to 25 percent.
- **Project L53 – Ellingson Road:** Project conditions included a requirement to construct partial street improvements along the development's frontage on the road, and dedication of additional street right of way. The street improvements are eligible for TSDCi credits up to 25 percent. The extra right of way acquisition needed for an ultimate five-lane section on the road is eligible for TSDCi credit of 100 percent.
- **Project L62 – Oak Creek Parkway:** Project conditions included a requirement to construct full street improvements and to keep 50 percent of the north side of the street as open space. The improvement is eligible for TSDCi credits up to 25 percent.

For most developments required to construct improvements eligible for TSDCi credits, the overall TSDCi fees due with building permits will exceed the available credit for construction of the eligible improvement. In that situation, the developer is not initially charged TSDCi fees with building permits, and only begins paying the

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fee after pulling enough building permits to have received credit equal to the eligible cost of the improvement. The situation for the Henshaw Farms development is different. The credit they will receive for construction of eligible improvements will substantially exceed the total of the TSDCi fees that will be due with building permits for the 226 lots in the subdivision. The amount of TSDCi credit that the development will be unable to be reimbursed for has been estimated to be \$929,097.

The developer has indicated that the cost of complying with wetland regulations and constructing required street improvements without the ability to make full use of the associated credits make the project financially unfeasible (Attachment C). Staff has spoken with different developers interested in the Henshaw Farms site over the last few years and all have come to the same conclusion. Development of the site and the associated extension of water, sewer, and street improvements is the first step toward implementation of the SAAP. Properties within the SAAP area south of Oak Creek cannot develop until urban improvements are first extended through and across the Henshaw Farms site. Implementation of the SAAP and development of the area south of Oak Creek is dependent upon the extension of street and utility improvements across the Henshaw Farms site.

The developer and staff have worked together to identify a possible path forward for the development. The basic concept involves implementation of a development agreement that would provide for an upfront City contribution of \$500,000 from the TSDCi fund for participation in the construction of Columbus Street, in return for the developer agreeing to forgo submittal of a reimbursement agreement the part of the work that is eligible for connection fees. Based on terms in the original annexation agreement, Henshaw Farms has a condition to fully improve Columbus Street (curb and gutter on both sides) along the frontage of the subdivision. Because they will be improving both sides of the road, the developer could enter into a reimbursement agreement to recover some of those costs in the future, through payment of connection fees, when the property along the east side of Columbus develops. If Henshaw Farms forgoes a reimbursement agreement, those future connection fees would remain with the City. The up-front TSDCi funds provided by the City would be partially offset in the future through payment of connection fees by the property along the east side of the road. While the future connection fees would go into a different street fund than the original contribution, there is no downside in terms of where and how they could eventually be spent.

The impact to the City of entering into a development agreement as described above would result in a decrease in the amount of funds in the TSDCi account. The city's contribution, however, would be used on a high priority TSDCi project exactly as intended by the TSP. The initial decrease in the TSDCi account would be offset at some point in the future when connection fees are paid with development of the property on the east side of Columbus Street. The amount of potential connection fees based on the frontage of those properties and today's connection fee rate is just over \$325,000.

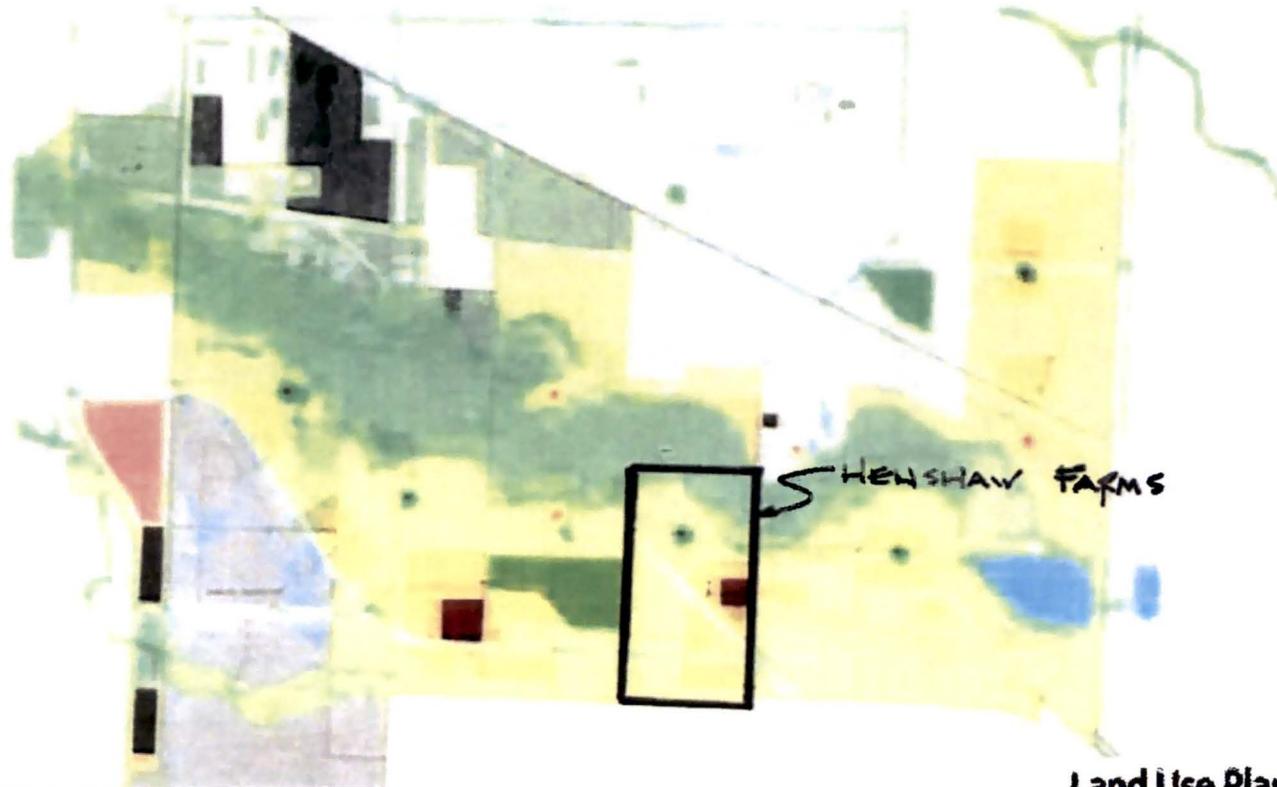
The benefit of entering into a development agreement would be to facilitate a partnership that allows the Henshaw Farms development to move forward, resulting in construction of the street and utility improvements needed to allow for the remainder of the area contained within the SAAP area south of Oak Creek to develop.

Staff recommends council direct staff to develop a draft agreement with the owner of the Henshaw Farms site for council consideration and future action.

Budget Impact:

Sufficient funds exist in the TSDCi account to allow for a contribution without jeopardizing funding for previously committed projects.

RGI:ss
Attachments (3)



- Residential - Low, Medium
- Neighborhood Center
- Regional Commercial
- Neighborhood Commercial
- Industrial Park
- Industrial - Light, Heavy

Land Use Plan



December 18, 2019

City of Albany
Community Development Department
333 Broadalbin St. SW,
P.O. Box 490
Albany, OR 97321

Matthew and Ron,

Metropolitan Land Group (MLG) has been working to begin development on the Henshaw Farms Subdivision for the past several years. We see the South Albany area as a highly desirable area for community growth. Unfortunately, the cost of extending Infrastructure has played a large role in delaying expansion into South Albany and the Henshaw Farms Development.

In December of 2018, we analyzed the improvement costs for SE Columbus Street, SE Ellingson Road, and SE Oak Creek Parkway relative to the available TSDC credits for the associated work. The total cost of improvements was estimated to be \$2,033,301 (2018 dollars) while the available credits for the 228-lot subdivision and three remainder parcels (lots 1, 2 and 3 zoned MUC, RM, and RM respectively) was calculated at \$1,104,204. This results in approximately \$929,097 of unused credits at full build out of the Henshaw Farms Project. We expect adjusted 2020 costs to be even higher with a greater deficit in unused credits.

Based on our conversation with City staff, MLG recognizes that there is a long-term benefit associated with the construction of these improvements, both to the project site and the City's expansion into the South Albany area—especially the construction of Columbus Street to ultimate width from the bridge, South to Seven Mile Lane. Given the large deficit of unused potential TSDC credits, MLG respectfully requests a financial participation of \$500,000 from the City for the Improvements along SE Columbus Street. Even with this participation, MLG will incur added expense to its development budget, but the City's participation will certainly help make the project more feasible.

In return for the City's upfront contribution, MLG would waive any claim to the 2Dyr. Capital Recovery for Sewer & Water extension within SE Columbus Street. However, MLG would still receive upsizing SCD credits and TSDC for work within SE Columbus St.

We really appreciate all that you've done to help move our project forward and the collaborative manner in which you've provided support. The success of our project will ultimately benefit both MLG and the City as sewer service will be made available to the South Albany Area while the high costs of the offsite Infrastructure Improvements would be mitigated by the financial contribution.

Thank you again for your cooperation and willingness to partner with us to bring a great project to the City of Albany.

Respectfully,



Darrel L. Smith
Metropolitan Land Group

v 503.597.7100 | f 503.597.7149
17933 NW Evergreen Pkwy, Ste. 300
Beaverton, OR 97006
cca 181393



ACQUISITION DEVELOPMENT CONSULTING

Account Description	FY19-20			FY20-21			Biennial Budget	\$894,520
	FY19-20 Planned Budget	FY19-20 Revised Budget	% Decrease	FY20-21 Planned Budget	FY20-21 Revised Budget	% Decrease	FY19-21 Revised Biennial Budget	% of the FY20-21 Biennial Budget
TLT (ALL Revenues)	\$1,048,600	\$789,000	-24.76%	\$1,059,200	\$424,280	-60%	\$1,213,280	
Wages/Salaries and Benefits	\$68,100	\$68,100	0.00%	\$73,500	\$40,097	-45%	\$108,197	9%
Material & Services	\$86,700	\$86,700	0.00%	\$91,900	\$27,570	-70%	\$114,270	9%
AMEDC	\$51,600	\$51,600.00	0.00%	\$51,600	\$7,740	-85%	\$59,340	5%
Total Tourism related activities	\$842,200	\$776,200	-7.84%	\$842,200	\$155,273	-82%	\$931,473	77%
CITY EVENTS	\$1,000	\$1,000	0.00%	1000	\$300	-70%	\$1,300	0.11%
COLLABORATIVE TOURISM	\$48,400	\$6,400	-86.78%	48400	\$0	-100%	\$6,400	1%
ALBANY MAIN ST PROG DEV	\$48,400	\$48,400	0.00%	48400	\$14,520	-70%	\$62,920	5%
VETERANS' DAY PARADE	\$3,000	\$0	-100.00%	3000	\$901	-70%	\$901	0%
ALBANY DOWNTOWN ASSOCIATION	\$46,300	\$46,300	0.00%	46300	\$13,890	-70%	\$60,190	5%
ALBANY VISITORS ASSOCIATION	\$384,500	\$384,500	0.00%	384500	\$115,350	-70%	\$499,850	41%
MONTEITH HOUSE OPERATIONS	\$6,300	\$6,300	0.00%	6300	\$1,893	-70%	\$8,193	1%
TO: AIRPORT - TLT	\$72,300	\$51,300	-29.05%	72300	\$0	-100%	\$51,300	4%
TO: FIRE - TLT	\$24,800	\$24,800	0.00%	24800	\$2,790	-89%	\$27,590	2%
TO: MONTEITH HOUSE - TLT	\$6,300	\$6,300	0.00%	6300	\$2,524	-60%	\$8,824	1%
TO: NWAA - TLT	\$153,400	\$153,400	0.00%	153400	\$0	100%	\$153,400	13%
TO: POLICE - TLT	\$24,800	\$24,800	0.00%	24800	\$2,790	-89%	\$27,590	2%
TO: PW STREETS - TLT	\$2,800	\$2,800	0.00%	2800	\$315	-89%	\$3,115	0%
TO: TROLLEY - TLT	\$19,900	\$19,900	0.00%	19900	\$0	-100%	\$19,900	2%
	\$1,048,600	\$982,600	-6.29%	\$1,059,200	\$230,680	-78%	\$1,213,280	100%
FY19-20 Gap		(\$193,600)					FY20-21 GAP	\$0.00

